

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

BRIAN ROBERT BLAZER,

Plaintiff,

v.

EBAY, INC.,

Defendant.

**CIVIL ACTION NO.:
1:15-cv-1059-KOB**

INITIAL SCHEDULING ORDER

The court has before it the report of the parties' planning meeting under Rule 26(f), and discussed that report with counsel on May 19, 2016. As discussed during the scheduling conference, the court enters the following Initial Scheduling Order.

I. Initial Deadlines

Plaintiff must disclose his infringement contentions by **Monday, June 20, 2016**.

Defendant must disclose its invalidity contentions by **Wednesday, July 20, 2016**.

The Defendant may file its initial motion for summary judgment on or before **Wednesday, July 20, 2016**. The court will enter a briefing schedule after reviewing the Defendant's motion.

Following ruling on the initial motion for summary judgment, the court will enter another Scheduling Order. The following provisions apply throughout this case.

II. Extensions

Any requests for extension of any deadlines must be filed at least **two business days prior to that deadline** to be considered. **Good cause must be shown for the extension of any deadline.**

Good cause includes a showing of what discovery, etc., has already been completed and precisely why the existing deadline(s) cannot be met.

No extension of the discovery deadline will be granted unless the party requesting the extension affirmatively shows actual efforts taken to obtain all needed discovery within the allocated time frame (i.e., no extensions will be granted when counsel has not taken full advantage of the allocated discovery time).

III. Discovery Disputes

No motions concerning discovery matters should be filed until counsel have met their obligations to discuss the anticipated filing of such motions directly with opposing counsel and have exhausted all efforts to resolve the dispute among themselves before involving the court. The court notes that to "discuss" requires actual communication with suggestions for genuine compromise, as opposed to mere e-mail wars of words between opposing counsel. Every discovery motion must affirmatively state all efforts to resolve the disputed matter; failure to attempt to resolve the dispute without court intervention or to affirmatively so state will result in the automatic denial of the motion.

Every discovery motion must include a proposed resolution of the dispute. Within **three days** of receiving notice of the motion, the non-moving party(ies) must file a response that also includes a proposed resolution of the dispute. Failure to respond within **three days** will result in the granting of the motion. If a response is filed, the court will accept the most reasonable of the parties' proposals, and discovery will proceed pursuant to the terms described in the accepted proposal.

Discovery disputes will infrequently be referred to a magistrate judge for handling. Because decisions concerning discovery rest largely within the discretion of the judge, objections to a

magistrate's ruling on a discovery matter should rarely be made and will rarely be granted absent a clear showing that the decision was clearly erroneous or contrary to law. *See* 28 USC § 636.

IV. Submission of Motions

All potentially dispositive motions must comply with this court's requirements as stated in "Appendix II" available on the court's website at www.alnd.uscourts.gov under the court information for Judge Bowdre. In its discretion, the court may enter a separate submission order. Counsel shall refrain from filing any motion for summary judgment where a reasonable person would recognize that genuine issues of material fact exist.

All other pre-trial motions, including challenges to expert witnesses but not including other motions in limine, must be filed by the same date. All other motions must be filed promptly after the movant becomes aware of facts indicating the need to file a motion, but only after consultation with opposing counsel in a good faith effort to resolve the issue. All briefs as well as pleadings should be filed with the Clerk of the Court. No courtesy copies of pleadings will be accepted, but the court **requires courtesy copies of briefs and evidentiary submissions to be delivered to the clerk's office (not to chambers) marked as judge's courtesy copy. COURTESY COPIES SHOULD BE DOUBLE SIDED TO CONSERVE PAPER.**

The court shall promptly dispose of nondispositive motions. Without prior notice, it may summarily dispose of perfunctory and/or other motions where the facts and law appear to be clear. Therefore, **when served with a motion, any party who wishes to oppose it should immediately telephone the court's chambers and so advise.** Opposing briefs and documents shall follow within **three days** after the motion is filed if notice is first given to the court of an intent to file opposition.

If the court enters a briefing schedule, the court will generally decide such motions as soon

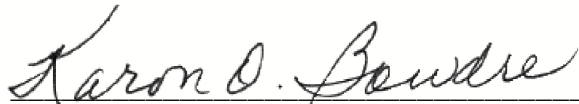
as practical. The court encourages counsel to contact the judge's chambers to verify that a motion is scheduled for a determination if counsel has not received a decision on the motion within **forty-five days** after the briefing has concluded and the motion is under submission.

ALL briefs, whether on pretrial or post trial motions, must comply with the requirements of "Appendix II" as far as practicable given the nature of the particular motion, including page limitations, unless the court grants specific permission to deviate. Unless the motion is dispositive, parties are not required to comply with Section D.

All motions, responses, briefs, and memoranda relating to any matter set for hearing before **the court NOT OTHERWISE GOVERNED BY A SUBMISSION ORDER must be filed electronically no** later than 4:30 p.m., the day before the date of the hearing. Papers filed after that time will not be considered at the hearing.

Except as expressly modified by the above, the stipulations, limitations, deadlines and other agreements set forth in the report of the parties shall apply in this case.

DONE and **ORDERED** this 25th day of May, 2016.


KARON OWEN BOWDRE
CHIEF UNITED STATES DISTRICT JUDGE